IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.777 of 2003**

DATE OF DECISION: November 21, 2006

BALBIR SINGH ...PETITIONER

VERSUS

SUPERINTENDING CANAL OFFICER ...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.**
**HON'BLE MRS. JUSTICE NIRMAL YADAV.**

PRESENT: MR. S.S. SALAR, ADVOCATE FOR THE PETITIONERS.
MR. C.M. MUNJAL, SR.ADDL.A.G., PUNJAB.
MR. SANDEEP KHUNGER, ADVOCATE
FOR RESPONDENT NOS. 2 TO 7.

**ASHUTOSH MOHUNTA, J. (ORAL)**

The petitioner had filed an application before the Divisional Canal Officer for transferring his area measuring 2.81 acres from outlet burji No.195/Right Phul Rajwaha Canal Minor to outlet burgi No. 294550/Left Bathinda Branch. The application of the petitioner was got processed by the Ziledar, Phul who recommended the transfer of the aforementioned area. On the basis of the above report, the Divisional Canal Officer vide order, Annexure P-2 directed that transfer from one outlet to the other be made. Respondent Nos.2 to 7 challenged the order, Annexure P-2 before the Superintending Canal Officer who vide order, Annexure P-3 has disallowed the transfer being not justified.

Counsel for the petitioner has argued that as the petitioner was not getting proper irrigation hence, the application for transfer was made. It has further been contended that the area sought to be transferred from one outlet to the other is very small i.e., only 2.81 acres.

Counsel for respondent Nos. 2 to 7 has opposed this transfer as according to him the petitioner is already getting proper irrigation as has been held by the Superintending Canal Officer.

We have perused the case file. The request of the petitioner seems to be genuine. It is clear from the order of the Divisional Canal Officer that he is not getting proper irrigation and that his area, sought to be transferred is only 2.81 acres. The transfer of such a small area will not effect the irrigation of the respondents. In view of the above, we set aside the order, Annexure P-3 passed by the Superintending Canal Officer and restore the order passed by the Divisional Canal Officer (Annexure P-2).

The writ petition is allowed.

**(ASHUTOSH MOHUNTA)**
**JUDGE**

November 21, 2006
Gulati

**(NIRMAL YADAV)**
**JUDGE**